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REPORT ON THE SITUATION OF HUMAN RIGHTS IN CROATIA PURSUANT TO SECURITY COUNCIL RESOLUTION 1019 (1995)

I. INTRODUCTION

1. In paragraph 12 of Security Council resolution 1019 (1995) of 9 November 1995, the Council requested the Secretary-General to continue to inform it on a regular basis of measures taken by the Government of the Republic of Croatia to implement resolutions 1009 (1995) and 1019 (1995). The present report covers measures taken by the Government of Croatia in implementing the aforementioned resolutions from 23 August, when the report of the Secretary-General was submitted pursuant to Security Council resolution 1009 (1995) (S/1995/730), until the end of November 1995.

II. MEASURES CONCERNING HUMAN RIGHTS VIOLATIONS

A. Background

2. In my report pursuant to Security Council resolution 1009 (1995) and my report to the General Assembly on the situation in the occupied territories of Croatia (S/1995/730 and A/50/648), I referred to the human rights situation in former Sectors North and South, following the Croatian military offensive in those areas. The Special Rapporteur of the Commission on Human Rights on the question of human rights in the territory of the former Yugoslavia has also considered violations of human rights and humanitarian law that have occurred during and following the aforementioned offensive (A/50/727). These reports refer to the following violations of the human rights of the Serb population: killing of civilians during and after the military operation; massive burning and looting of property belonging to Serbs; harassment and ill-treatment of Serbs; and inadequate care and protection of the remaining Serb population, composed mainly of vulnerable persons. Reports of such violations continue to be received up to the present time.

3. Concern for the humanitarian situation and the human rights of the remaining Serbs in the Krajina led the United Nations Peace Forces (UNPF) to establish human rights action teams, which were composed of UNCRO political and humanitarian affairs officers, United Nations military observers and United

Nations civilian police. Several of the teams were led during the first two months by field officers of the Centre for Human Rights of the Secretariat. These teams conducted extensive investigations and gathered a large volume of information on human rights abuses in the area, in particular on the systematic looting and burning of Serb property.

4. The initial reaction of the Government of Croatia was to deny that human rights violations, including widespread burning and looting, summary executions, intimidation and physical abuse, had occurred and continued to take place. As accounts of human rights abuses persisted, Croatian authorities conceded that violations had occurred, but blamed "rogue elements" that the military and police were allegedly unable to control. In response to reports that many of those committing violations were wearing Croatian military uniforms, Croatian authorities added that some of the perpetrators were civilians dressed in uniforms or "Home Guard" soldiers. Military and police authorities claimed that they lacked adequate resources to stop the abuses, yet military forces remained in the former sectors in large numbers and successfully imposed restrictions on the movement of United Nations observers and civilian personnel more than one month after the offensive.

5. The High Commissioner for Human Rights conveyed his concern about the reported human rights violations to the President of Croatia in letters dated 18 August and 2 October 1995. In a letter dated 23 August 1995, the Deputy Prime Minister and Minister for Foreign Affairs of Croatia expressed the Government's rejection of the alleged looting and burning, but stated that the reported incidents would be investigated by the competent authorities. In a second letter, dated 13 October 1995, he conceded that the Government had yet to establish full control over its territory and provided data 1/ on cases of violations and on the respective action taken by the Government.

B. Police patrolling measures

6. Extensive patrolling measures were necessary in order to prevent these incidents from occurring. However, available information indicates that the measures taken by the Croatian Government in this regard have been inadequate. The Croatian Foreign Minister gave written assurances to the High Commissioner for Human Rights on 23 August that the "Croatian Government has taken all necessary measures to prevent any further incidents from occurring". At the local level, the Croatian authorities in Knin, including the Military Governor, General Cermak, gave numerous assurances to United Nations officials in August and September 1995 that patrolling by Croatian civilian police would soon be increased throughout the former Sectors. Despite these assurances, by 10 September, United Nations monitors had observed that few Croatian police officers were present in the countryside except in the area of Vrlika.

7. Other reports raise questions about the efficiency of Croatian efforts to protect the remaining Serbs from continuing abuses. On 9 October 1995, United Nations officials meeting with Croatian police in Knin were informed that joint patrols between the Croatian and United Nations police forces would be cancelled for lack of manpower and vehicles. In the week ending 19 November, it was further reported that there was a substantial reduction in the number of

Croatian police checkpoints in former Sector South. Local authorities are reported to have said that these checkpoints have been replaced by mobile patrols but there has so far been no evidence of such replacement patrols.

C. Investigation and prosecution

8. The United Nations human rights action teams collected information on a daily basis concerning suspicious deaths, arson, looting and harassment. Such acts constitute crimes under the criminal code of Croatia. Information available to United Nations sources as well as relevant statements made by the Government of Croatia are summarized below.

1. Killings

9. United Nations personnel have seen the bodies of more than 150 people who died in suspicious circumstances in former Sectors North and South. They have also received from local residents credible reports of numerous killings, bringing the total of suspicious deaths to more than 230. Fewer than 30 of the dead were men in military uniform; many of the bodies had bullet wounds in the back or head. A large percentage of the dead were elderly: 64 people over the age of 60 were killed in former Sector South alone.

10. A Croatian Government press release dated 19 October 1995 refers to a total of 41 cases of murder registered by the Croatian authorities. Furthermore, in an aide-mémoire of 18 November, the Croatian Government provided the following data covering the period from 4 August to 31 October:

> "Twenty-six murders had been investigated: 15 of these cases (4 multiple murders and 11 single murders) involving 31 victims have been 'clarified'. Twenty persons have been charged before the judicial authorities, of whom 3 are members of the Croatian Army, 1 is a police officer and the rest are civilians. The police are taking steps to trace the perpetrators of 11 investigated murders. It is alleged that the civilians were partially or completely dressed in Croatian Army uniforms."

11. The Croatian Government established a special commission, under the auspices of the Ministry of the Interior, composed of highly experienced police officers and investigators to follow up on serious crimes. This special commission was responsible for investigating the murder of nine elderly Serbs in Varivode on 28 September. In that incident, the murder victims had been hastily buried in the Knin cemetery, allegedly before their families were notified of the killings. United Nations observers visiting the scene of the crime on 2 October found bullet holes, blood stains and other physical evidence in the homes of the victims; there were also signs that Croatian police had begun an investigation into the murders. In the following days, restrictions on movement were imposed around Varivode, giving rise to concerns over the safety of the few remaining Serbs in the area and hindering efforts by United Nations monitors to investigate the incident. By 5 October, however, it was also reported that police patrols had been intensified in villages in the vicinity. By 27 October, it was reported that eight suspects had been arrested and handed over to the

court at Zadar and that one was still at large. United Nations civilian police have not received sufficient information to allow them to monitor the case effectively, since the close cooperation promised to them by the Croatian police has not materialized.

12. The murder of seven Serbs in the village of Gosic in Sector South, on 27 August 1995, has also been investigated by the Croatian police. It was reported on 20 October that four defendants were being detained in Zadar but no formal charges had been filed against them as of that date.

13. There remains a significant discrepancy between the number of suspicious deaths recorded by the United Nations and the number of murders registered by the Croatian authorities. Much attention has been accorded to the investigation of high-profile cases, but less is known about investigations into other incidents. In most cases, very little information on the status of the proceedings has been given to United Nations officials. Efforts to determine the number of civilians killed during and following the Croatian offensive have also been impeded by the refusal of Croatian authorities to provide access to burial records concerning more than 750 freshly dug graves found by United Nations staff in former Sectors North and South since 4 August. Crosses marking the graves reveal the names of only a small percentage of those buried.

2. Arson

14. It is not possible to provide the exact number of houses destroyed by fire in former Sectors North and South, although the estimated total is in excess of 5,000. Based on observations by teams patrolling throughout the Krajina, the European Community Monitoring Mission (ECMM) estimates that in rural areas 60 per cent of the homes in former Sector South and 30 per cent of the homes in former Sector North have been destroyed by fire. United Nations military observers visited 389 villages in Sector South and found that, out of 21,744 houses, 16,857 had been destroyed by fire or had sustained some damage, although this figure includes damage from before "Operation Storm". Although some decrease in the number of house burnings was reported towards the end of August, United Nations sources continued to observe numerous fires throughout September and October. Only in the past month have reports of home burnings subsided.

15. The Croatian Government has provided the following statistics for the period from 4 August to 31 October 1995:

> "2,787 arson cases have been registered. This includes 2,072 buildings partly affected by combat operations, whereas 715 were partly or wholly destroyed in deliberate actions. Criminal charges have been brought against 11 persons".

16. A significant discrepancy remains between the alleged number of properties set on fire according to United Nations estimates (at least 5,000) and the number of persons charged (11) in connection with these incidents. Furthermore, the figures provided by the Croatian Government do not indicate the degree of involvement of Croatian military and police officials. In innumerable cases observed first hand by United Nations and other international personnel,

Croatian soldiers and civilian police were in close proximity to burning buildings and did not appear to be attempting to extinguish the fires and, in some cases, even appeared to have set them. The Croatian claim that nearly 75 per cent of burnt buildings were "affected by combat operations" is also inconsistent with United Nations reports, which document numerous fires in areas where hostilities had ceased days, weeks and sometimes even months before.

3. Looting

17. There is abundant evidence that looting took place in the former Sectors North and South on an enormous scale, but it is impossible to quantify the exact number of individual incidents. United Nations reports indicate that hundreds of incidents of looting were recorded. However, given that many of these cases involved a series of looting incidents or, in some cases, several villages being looted at one time, estimates of individual acts of looting must run into thousands. This is particularly so given that most properties were allegedly looted before being burnt. United Nations officials consider that virtually every abandoned Serb property in the former Sectors North and South has been looted. In fact, most abandoned homes have been looted repeatedly, with recent reports involving thefts of roof tiles, doors and other building materials, since all valuable personal property had already been taken. In addition to the looting of abandoned properties, many of the remaining Serb residents of former Sectors North and South have reported to United Nations teams that they have been robbed, often at gunpoint, by civilians and by people in Croatian military uniforms.

18. The Croatian Government has reported the following figures for the period from 4 August to 31 October 1995:

> "1,054 cases of looting have been established, of which 770 cases have been clarified and 1,260 persons charged."

19. These figures do not indicate the number of Croatian soldiers and police responsible for these incidents. In a report dated 26 September, a Croatian official in Knin stated that 370 persons, including 260 civilians, 70 policemen and 35 Croatian soldiers had been arrested for looting residences. On 16 November, a senior Croatian police official reported to the United Nations that three Croatian soldiers had been arrested in connection with looting, intimidation and harassment of civilians in the area. The three had then been transferred to the Karlovac military headquarters. United Nations observers have witnessed incidents where property has been confiscated from looters by Croatian police. Some incidents suggest that, apart from the confiscation of stolen goods, no further action has been taken against the looters.

20. Croatian Government figures indicate that a high number of people have been apprehended and charged (1,260). It should be noted that a number of suspects were cited for these acts and then released. The extent to which Croatian authorities will follow through on these charges is not yet known. Croatian authorities have made efforts to confiscate and return property, but it appears that these have been insufficient to address the magnitude of the problem.

4. Miscellaneous abuses

21. United Nations teams have received hundreds of reports of harassment and intimidation of remaining Serbs by Croatian military, police and civilians. As noted, many Serbs have reported incidents of armed robbery by men in military uniforms; in other cases, Serbs have said that they are afraid to leave their homes even briefly for fear of looting in their absence. Death threats and other scare tactics, including shots fired in the air, have also been reported.

22. For the mostly elderly Serb population remaining in the former Sectors, these attacks have been severely debilitating. Many residents report that they continue to live in fear, despite increased patrolling by Croatian police. The impact of this situation, however, has not just been psychological: many elderly Serbs have been robbed of items fundamental to their survival, including livestock, firewood and even humanitarian aid packages.

23. In addition, there are troubling reports of physical abuse of Serbs by Croatian military, police and civilians. In numerous cases, elderly residents reported being beaten or abused by those who robbed them. In a small number of cases, persons detained by Croatian authorities have reported being beaten while in custody and human rights monitors have seen the bruises and scars resulting from such abuse. Persons detained in Croatian custody for investigation on armed rebellion charges have also reported physical abuse to United Nations monitors; most reports relate to beatings in the initial stage of detention, immediately following arrest.

5. Ineffectiveness of criminal law enforcement

24. Reports have been received that police officials have at times shown an apathetic attitude when crimes have been reported to them. In a number of cases, no action has been taken at all. On 11 October 1995, an international agency visiting the village of Prljaj noted that its 10 Serb residents had complained to Croatian police of harassment by uniformed men. The official response was that nothing could be done. A 75-year-old Serb man alleged that he was beaten in his home in Knin on 22 August by Croatian soldiers and that the Croatian police laughed at him when he attempted to report the beating.

25. In a number of other cases, the response of the Croatian authorities has not been as timely and as thorough as it should have been. In some cases, investigations by Croatian police were clearly insufficient. On 25 August, a human rights action team found virtually the entire village of Grubori in Sector South ablaze. The team notified the Croatian authorities, who said they would respond immediately. When the human rights action team returned to the village that evening, however, Croatian police had not yet taken action. The team found the bodies of two individuals that evening and another three bodies were discovered during the next two days. Three of the dead had gunshot wounds in the head, one elderly man's throat had been slashed and a 90-year-old woman apparently burned to death in her home. Several days later, the region's Military Governor said that his investigation had revealed that armed clashes in the village had resulted in fires that caused the deaths of two unidentified women and that two elderly men had "succumbed to trajectory wounds". Although

Croatian authorities provided assurances that a full investigation of the incident would be conducted, a human rights action team returning to Grubori more than two weeks after the killings found two bullets and their casings on the blood-soaked floor of the bedroom of an elderly man who was one of the victims. This indicates that a thorough investigation had not been conducted.

26. In Sector North, the body of an elderly man apparently killed in early August remains sitting in a chair on the balcony of his home despite several reports to the Croatian police as far back as September. On 18 November, a United Nations Civilian Police patrol noticed that the corpse remained on the balcony and returned four days later to find that the body had been covered with a blanket. In numerous cases, United Nations teams have reported to the Croatian police that they have found corpses. Returning to the scene several weeks later, it was noticed that the bodies were still present with no indication that Croatian authorities had taken any action either to investigate the death or to arrange a proper burial.

27. United Nations officials have reported difficulties in eliciting detailed responses from the Croatian police and judicial authorities concerning investigation and prosecution of these cases, including information concerning arrests, filing of charges and trial dates. Those difficulties have been reported in all cases, even the most high-profile ones. Furthermore, most cases that the authorities claim to have resolved are simply cases that concern persons placed under arrest who are still awaiting further investigations or trial.

III. HUMANITARIAN SITUATION OF THE REMAINING SERB POPULATION

28. As many as 200,000 people, more than 90 per cent of the Serb population, are estimated to have fled former Sectors North and South following the recent Croatian offensive. The International Committee of the Red Cross (ICRC) estimates that the remaining Serb population in former Sectors North and South is a little over 9,000. Vulnerable people, including the elderly and disabled, constitute about 75 per cent of the population of the area.

29. According to the Croatian Government's data, more than 2,400 residents of the former Sectors are elderly people in need of substantial assistance. Of that group, the Croatian Red Cross estimates that more than 270 people are unable to survive without institutional care. Croatian Red Cross teams have reportedly already placed 65 extremely vulnerable people in care facilities.

30. The humanitarian situation of these remaining Serbs is very grave. United Nations teams have found elderly Serbs in desperate need of food, medical assistance and proper shelter. The question of adequate medical care is a particularly serious issue. On 13 November, it was reported that two elderly Serbs in former Sector North had died after being denied adequate medical treatment by local medical facilities. An 82-year-old man, suffering from partial disability, died on 6 November for lack of prompt medical attention. United Nations officials first discovered him in very poor conditions in an isolated setting on 30 August. Interventions by United Nations officials with local medical authorities proved fruitless. The authorities finally agreed on

3 November to transfer the old man to Glina hospital. This transfer did not take place for want of ambulances and the man was found dead on 6 November.

31. In former Sector West, Serb residents are also suffering from a lack of humanitarian assistance. For example, many Serbs in the Okucani area are elderly and live in isolated villages without electricity or telephone services.

32. Although belatedly, the Croatian Government has taken a number of steps to deal with this problem. The Croatian Minister for Labour and Social Welfare has stated that special centres are to be opened in Petrinja and Knin for the reception of elderly and sick persons. In addition, it is reported that the Croatian fund for pension and disability insurance will distribute 666 pension allowances to Croatian Serb citizens, which will be paid retroactively from August. The Government also claims that almost everyone has received the proper documentation, although local residents continue to report to United Nations teams difficulties in obtaining such documentation. Croatian authorities, working with the International Federation of Red Cross and Red Crescent Societies and the Croatian Red Cross, deployed eight teams in former Sectors North and South to conduct an assessment of the needs of the residents. The objective of the Croatian Red Cross teams was to identify vulnerable people and address their needs, while Croatian government teams focused on medical issues, registering residents, and on questions of documents, citizenship and property. The teams were frequently accompanied by United Nations Civilian Police and other United Nations staff who helped to familiarize Red Cross staff with the area and the needs of remaining Serb residents. The Croatian authorities report that they have surveyed 5,270 people and are creating a data bank of the information gathered. The Croatian agencies involved in this effort are also said to have worked simultaneously to address the humanitarian needs of the persons surveyed. United Nations officials travelling with the teams reported frustration on the part of those surveyed that aid was not distributed at the time they were questioned.

33. Despite these efforts, the general view of international agencies operating in the region is that much more needs to be done by the Croatian authorities to address the plight of sick and elderly persons in former Sectors North and South. While Croatian authorities have now given assurances that they are working to provide adequate food, shelter and medical care for residents of the region, it remains to be seen whether the necessary resources will be devoted to address the substantial needs identified in the now completed assessment survey. United Nations teams working in the former Sectors continue to encounter people in desperate situations and face ongoing difficulties in securing assistance when these cases are brought to the attention of local authorities. For example, the Red Cross in Glina is relying on United Nations Civilian Police to deliver humanitarian aid packages because it is unable to cover the 40 villages in their area of responsibility with the one vehicle available to it. In a meeting with United Nations officials on 14 November, a senior Croatian official in the Sisak area stated that the needs of the Serb minority were overwhelming and very difficult to meet for lack of staff and vehicles. In former Sector South, Croatian authorities recently stated that 100 beds in the Knin hospital would be devoted to urgent medical cases, but refused to commit to a particular date by which the space would be made available.

IV. THE QUESTION OF THE RETURN OF SERB REFUGEES

34. More than 20,000 of the estimated 200,000 Krajina Serb refugees in the Federal Republic of Yugoslavia (Serbia and Montenegro) have indicated their desire to return to Croatia. However, various practical, legal and administrative obstacles impede their return.

35. The recent law on "the temporary takeover and administration of specific property" allows the Croatian authorities to assume control over "abandoned property", which may then be provided to Croatian displaced persons and refugees for "temporary usage". This law requires that the legitimate owner return to Croatia in order to reclaim his or her property. An initial deadline of 30 days for owners to reclaim property was extended to 90 days, until 27 December 1995. However, this extension has had little effect in ensuring that the property rights of the Serbs are adequately safeguarded. The property owner still has to file a personal claim and must also commit himself or herself to resettle in Croatia and personally use the property in question. Even if the owner does return within the deadline, his or her property will not be restored until the Croatian citizen to whom the property has been allocated receives another "appropriate property for possession and usage". Given the substantial obstacles to return discussed below, the requirement that owners must reclaim their property by 27 December constitutes a virtually insurmountable obstacle for most Serb refugees. The law applies not only to real estate and homes, but also to movable possessions, including furniture, machines and equipment. In fact, Croat returnees in former Sector North informed a United Nations team in late October that they had already been told by Croatian authorities to look for shelter, furniture and clothes in abandoned houses. A Croatian police official reportedly stated that Croat returnees were permitted to take "whatever they need" from abandoned houses, without official permission.

36. Croatian Serb refugees wishing to return to Croatia continue to be hampered by bureaucratic obstacles. Both the Croatian liaison office in Belgrade and the Croatian Embassy in Budapest have reportedly adopted a very uncooperative attitude towards Croatian Serb refugees. On 19 September, Croatian border authorities reportedly refused to allow Croatian Serbs to enter Croatia at the Davor crossing point, claiming that this crossing was only for Muslims and Bosnian Croats.

37. According to an official press release dated 18 November 1995, the Government of Croatia had decided to grant immediate return to ethnic Serbs who wished to return to their homes and had close family members in Croatia as of the week ending 9 October 1995. Despite this assurance of a humanitarian policy for family reunification, a group of more than 100 elderly Serb refugees were stranded in Barc, Hungary, for many weeks because of various bureaucratic impediments blocking their return to Croatia. Only on 20 November did the Office of the United Nations High Commissioner for Refugees (UNHCR) receive authorization for 59 members of this group to enter Croatia. The group were the first Krajina Serbs to return to Croatia under UNHCR auspices; only a handful of Croatian Serb refugees have been able to return on their own. The Croatian Government has stated that a mass return would not be possible in the absence of a specific agreement between Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro).

V. CONSTITUTIONAL RIGHTS OF THE REMAINING SERB POPULATION

38. In September, the Croatian Parliament decided to suspend temporarily several articles of the "The Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities in the Republic of Croatia". This measure casts doubts on the intention of the Croatian authorities to promote effectively the rights of the minorities, in particular the Serb minority living on Croatian territory. This decision suspended the following provisions: article 13, which guarantees the special status of districts predominantly populated by national minorities; article 15, paragraphs 1, 3 and 4, which provided for separate educational institutions; and article 18, paragraph 1, which provided for proportional representation in the Parliament, government and the judiciary. It will be recalled that the adoption of these provisions was considered one of the essential conditions for international recognition of Croatia.

39. The aforementioned parliamentary decision also suspended article 60 of the same law, which provides for the establishment of the Provisional Human Rights Court. However, the Croatian Government has advised that it has recently issued a decision to initiate the establishment of this court. The Ministry of Justice has created a working group to consider the relevant legal issues.

VI. DETENTION OF SERBS FROM THE FORMER SECTORS

40. The Government of Croatia arrested and detained a number of Serbs following the military offensive in former Sectors North and South. The Government of Croatia has provided the following information regarding this matter:

> "Following the completion of Operation 'Storm', detention centres were set up in Gospic, Karlovac, Sisak, Split, Sibenik and Zadar. A total 1,108 persons passed through these centres, of whom 223 were released and assigned to civilian centres and the rest (885) suspected of having committed war crimes, were handed over to investigation authorities. The prisoners were treated correctly. All the said centres were closed in the period from 14 August to 27 October 1995."

41. More than 700 people remain detained by the Croatian authorities. Many detainees have not yet been charged and are currently held in "investigatory detention". The maximum period set for such detention under Croatian law is six months, and in some cases the period of detention has been extended, in accordance with the law, until February 1996 by order of the Croatian Supreme Court.

42. Defendants who have been charged are most commonly accused of "armed rebellion" or "war crimes" (crimes against humanity, including crimes against civilians) during a time in which they served in the "Republic of Serb Krajina" military forces. The trials have begun in some of the cases. In two trials completed in Gospic on 15 and 16 November, more than 20 people were reportedly convicted and sentenced to terms ranging from two and a half to six years for acts of "armed rebellion". In Zadar, 26 Serbs were charged with crimes against the civilian population of the Skabrnja village in 1991 in a trial that

concluded on 11 December. Only one defendant was present at the trial; the other 25 were tried in absentia. Eighteen of those charged were convicted; the cases against the other eight defendants were suspended pending further investigation. Of those convicted, 16 were sentenced to 20 years, 1 defendant received a 15-year sentence and the only defendant in custody received a 10-year sentence. A military court in Karlovac sentenced 18 Serbs arrested in the wake of "Operation Storm" to up to 10 years in prison for armed rebellion on 23 November 1995.

43. UNPF/UNCRO has convened a number of inter-agency meetings in an attempt to enhance coordination of the monitoring of the detention and trials of the Krajina Serbs. A number of international organizations are visiting detainees. UNPF/UNCRO, as well as the field officers of the United Nations Centre for Human Rights, are focusing on legal issues arising in the cases, while ICRC, in accordance with its mandate, has assumed primary responsibility for monitoring conditions of detention. During visits to detainees, UNCRO staff have received credible accounts of beatings by the Croatian police, most of which are said to have occurred in the first hours or days of detention.

44. In addition, UNCRO staff recently conducted a survey concerning legal representation of 119 of the detainees. Of the group interviewed, more than half (62) did not have access to legal counsel, despite the requirement under Croatian law that court-appointed attorneys be provided in all cases where the maximum sentence is 10 years or more. Of those who had court-appointed attorneys, 23 either had not been visited by their lawyer at all or had seen their lawyer only once or twice during their three-month detention. In some cases, detainees had seen their lawyers only in court hearings.

45. The lack of specificity found in arrest warrants and charges filed against Krajina Serb detainees is an additional concern. As was and continues to be the case in Western Slavonia, some defendants face broad charges that are not sufficiently detailed for an adequate defence to be prepared or presented.

VII. COOPERATION WITH THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA

46. The International Tribunal has indicated that, since the earliest meetings between the Prosecutor and senior Ministers in Zagreb, it was made clear that Croatia would extend full and unqualified cooperation to the Tribunal. That assurance was given at the highest level and did not depend on the position taken by other Governments. Since then there has been regular communication between the Prosecutor's office and the Croatian authorities. Investigations by the Tribunal have taken place in Croatia and a temporary liaison office has been set up in Zagreb. The Prosecutor has had no cause to complain about the level of cooperation received to date.

47. The Croatian Government has stated the following on its cooperation with the Tribunal:

"On many occasions Croatia expressed its readiness to cooperate with the International Tribunal for War Crimes, through correspondence or during bilateral talks. Croatia's sole reservation (in view of the Federal Republic of Yugoslavia (Serbia and Montenegro)'s explicit refusal to cooperate) referred to a possibility that only Croats be put on trial, or Croats and Muslims from Bosnia-Herzegovina, and that trials should begin once all the perpetrators of war crimes become accessible. In Croatia, the Office of International Tribunal for War Crimes has been opened and started to operate in mid-November 1994. Professor Ivo Josipovic has been appointed a permanent Croatian representative with the International Tribunal."

48. Concern has been expressed about the promotion in the Croatian Army inspectorate of General Thiomir Blaskic of the Bosnian Croat forces, recently indicted by the International Tribunal. The Croatian Government issued a press release on 20 November 1995 stating that General Blaskic's new position in the Croatian Army amounted to a demotion and that his transfer had occurred several days before the indictment of the Tribunal was known.

VIII. SITUATION OF REFUGEES IN THE KUPLJENSKO AREA

49. At the beginning of August, approximately 25,000 Bosnian Muslims loyal to Mr. Fikret Abdic, including women and children, fled to Croatia from the Velika Kladusa area of Bihac, in north-western Bosnia and Herzegovina, following the fall of that region to Bosnian government forces. These refugees, many of whom felt insecure about returning to Bihac while the Bosnian Army Fifth Corps remained in control of the region, have been temporarily camped in the Kupljensko area along the sides of the road between Vojnic and Velika Kladusa.

50. The Croatian Government has so far been unwilling to recognize them as refugees and to allow UNHCR to improve the inadequate living conditions currently prevailing in the Kupljensko area. A number of international agencies have assessed that the site of the camp is highly unsuitable, with poor sanitation leading to serious health concerns. The makeshift accommodation in which refugees are housed is also insufficient for winter conditions.

51. The Special Rapporteur of the Commission for Human Rights has referred to the situation of these refugees in her last report (A/50/727-S/1995/933). Several hundred Croatian Special Police moved into the camp in mid-October, reportedly to "restore law and order". There have been troubling reports, however, that the police have failed to respond to requests by UNHCR and refugees to investigate security incidents. Furthermore, even when the Croatian police have intervened, they have conducted only cursory investigations on the basis of which they have detained and forcibly returned persons to Velika Kladusa. For example, following a large disturbance on 6 November, the Croatian police arrested more than 50 people on an apparently random basis. While women, children and the elderly were promptly released, 32 men were forcibly returned to Velika Kladusa. Credible reports indicate that some of the men were beaten while in Croatian police custody: international monitors who interviewed some of the men observed signs of recent beatings.

52. An agreement on the establishment of a mission of goodwill and joint police forces for action "Return" was concluded between the Governments of Bosnia and Herzegovina, Croatia and Turkey at a meeting held on 23 October 1995. On 5 December, a tripartite police force composed of 100 Bosnian, 50 Croatian and 50 Turkish police officers was established and began patrolling the Velika Kladusa area. At the same time, with weather conditions deteriorating in the past month, a steady stream of refugees totalling 5,000 have returned to the Velika Kladusa area up to the present date.

IX. THE SITUATION IN SECTOR EAST

53. Paragraph 7 of Security Council resolution 1009 (1995) "urges the parties and others concerned to exercise maximum restraint in and around Sector East ...". In the presence of the United Nations Mediator and the United States Ambassador to Croatia a "Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium" was signed on 12 November 1995 between representatives of the Croatian Government and the Serb negotiating delegation (S/1995/951, annex). The agreement stipulates, inter alia, that the highest level of internationally recognized human rights and fundamental freedoms shall be respected in the region. By resolution 1023 (1995), the Security Council welcomed the basic agreement and expressed its readiness to consider the request to establish a transitional administration and authorize an appropriate international force. At the present time, there are no specific developments to be reported concerning the situation on the ground.

X. OBSERVATIONS

54. Human rights violations in former Sectors North and South continue to be reported to the present day, albeit on a reduced scale. There is a considerable discrepancy between the number of perpetrators that have so far been brought to justice and the number of reported violations of human rights. A thorough effort should be made to arrest all perpetrators and bring them promptly to trial.

55. A number of individuals have reportedly tried to file complaints against Croatian civilians and security personnel. However, Croatian police officials generally appear to have displayed an unresponsive attitude and in many cases have taken no action.

56. The right of Krajina Serbs to remain in their homes has not been adequately safeguarded. Remaining Serbs have faced extensive harassment and intimidation; looters and armed thieves have robbed Serb residents of both their property and their sense of security. The victims of these abuses place little faith in Croatian authorities to address these crimes and are reluctant to file reports with the Croatian police. On those occasions when Serbs have approached the Croatian police, their complaints have sometimes been met with disinterest by authorities, who purport that there is nothing that can be done to remedy the situation.

57. The rights of the Serb population who fled during the military operation to return to their homes in safety and dignity are being seriously curtailed by the absence of constructive measures to facilitate their return. Many Serbs who are in principle entitled to Croatian citizenship, and even some who have Croatian documents, have been unable to return, given the obstacles presented by Croatian authorities, and some have reportedly been turned back at the border.

58. The humanitarian situation of the Serb population who have remained in the former Sectors is particularly disturbing This population is composed mainly of elderly and disabled people who live in small villages deep in the countryside. Many of these have received inadequate attention, at times with fatal consequences. It is feared that many more may die during the winter if adequate assistance is not provided in a timely manner.

59. Failure to respect the right to a fair trial of those Serbs who remained and have been arrested on grounds of having committed "war crimes" or "armed rebellion" also gives rise to concern. Inadequate access to legal counsel, vagueness of charges, trials in absentia and an excessive delay in formulating indictments appear to be the main source of problems. Court-appointed attorneys are reluctant to fulfil their duties and have little or no contact with defendants.

60. Furthermore, the rights of the minority population in the Republic of Croatia are being restricted by changes in the Constitution. In addition, new legal provisions, such as the law concerning the return and reclamation of property, are inhibiting the full enjoyment of human rights and fundamental freedoms. It is necessary to ensure that the rights of the Serb minority are adequately safeguarded in the legal and constitutional framework of the Republic of Croatia.

Notes

1/ Up-to-date data on cases of violations have been provided by the Croatian Government in an aide-mémoire dated 18 November 1995, some of which is reproduced below.